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TESTIMONY FOR AB 383 Amending the Disposal Ban on Oil Absorbent Materials

Thank you Chairman Mursau and members for scheduling AB 383 for a public hearing today.

AB 383 amends 2009 Act 86. Act 86, as originally proposed, prohibited the disposal of automotive oil filters in Wisconsin landfills. I think you'll hear from others today that they support oil filter recycling and I want to stress that this bill does not change that requirement. The problem with Act 86 was that it was amended in committee to also include a landfill ban on nearly all materials used for absorbing spilled petroleum products. This significantly expanded to scope of the original proposal and has caused considerable problems for any business or individual that uses absorbents to clean up spills. And may in fact be causing more environmental problems related to spills by providing a disincentive to use absorbents when spills occur. AB 383 fixes the problems that have been caused by the oil absorbent landfill ban.

Many businesses, especially manufacturers, will use absorbents on a daily basis. Examples of absorbents include sawdust, kitty litter, foundry sand, paper towels and other industrial wipes specifically designed to absorb oil. From oil drips or spills on the shop floor, to wiping down equipment at the end of the day, businesses and individuals are using absorbents to cleanup oil. Act 86 has created a situation where businesses or individuals must come up with special handling of these materials at their business and then contract for recycling which is very limited, find somewhere to incinerate the used product, or ship it out-of-state for disposal in a landfill. All of these options include significant cost and burdensome compliance procedures.

And for what purpose? Oil absorbent materials have been safely disposed of in engineered landfills for many years. Current EPA policy and DNR rules (prior to the passage of Act 86) allowed for oil absorbent material to be disposed of in licensed landfills as long as the absorbent itself is not a hazardous waste, and all free flowing oil has been removed from the material prior to disposal.

So the question is what benefit do we get for all the extra cost and work? I think you'll hear from other individuals today very little if any. In effect, what we've learned since Act 86 has gone into effect is that it has been a wonderful example of a solution in search of a problem.

What AB 383 does is remove the landfill ban on oil absorbent materials and replaces it with the EPA and DNR rules that allow for disposal if the material is not hazardous and all free flowing oil has been drained from the absorbent. The bill itself simply takes us back



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to the common sense regulation we used before when dealing with oil absorbents and codifies it.

I'd like to thank the DNR Bureau of Waste and Materials Management for working with us on the bill and making suggestions to ensure the bill is consistent with current language in NR 679.81 that the public has come to understand and use. The bill was supposed to have included those suggestions, but for some reason the changes were not incorporated in the final draft. I have an amendment being drafted to make those changes.

I know others will be testifying today and providing specific examples of the problems they have encountered as a result of Act 86. You'll be able to learn much more from them, but I will try to answer any questions if you have them.



WMC

WISCONSIN'S BUSINESS VOICE SINCE 1911

TO: Members, Assembly Committee on Natural Resources

FROM: Scott Manley, Director of Environmental & Energy Policy

DATE: January 4, 2012

RE: Support for Assembly Bill 383 – Disposal of Oil Absorbent Materials

Wisconsin Manufacturers & Commerce (WMC) appreciates the opportunity to testify in support of Assembly Bill 383, which would align state regulations for the disposal of oil absorbent materials with those of the U.S. EPA under federal law. We respectfully request your support for this important bill.

WMC is Wisconsin's largest general business trade association, with roughly one-fourth of the state's private sector workforce employed by a WMC member company. We represent businesses in the manufacturing, banking, energy, health care, insurance, retail and other service sectors of our economy. Last year WMC celebrated its one-hundredth anniversary of advocacy which is dedicated to making Wisconsin the most competitive state in the nation to do business.

As you may know, 2009 Act 86 established a ban on the disposal of oil absorbent materials in Wisconsin landfills under most circumstances. As a result, rags, wipes, paper towels, kitty litter, saw dust, foundry sand and other materials used to cleanup spilled petroleum products are regulated as a separate waste stream that cannot go to a landfill. Although there is an exemption in Act 86 for materials of one gallon or less from "non routine" spills, the DNR generally does not interpret that exemption to apply in most business settings.

The Act 86 special handling and disposal requirements have increased the cost of doing business for Wisconsin employers without a corresponding environmental benefit.

For many years, state regulations (NR 679.81) allowed oil absorbent materials to be safely disposed in Wisconsin landfills if certain conditions were met, including the removal of all free-flowing oil. Similarly, federal regulations promulgated by the EPA (40 CFR Part 279) allow oil absorbent materials to be safely disposed in a landfill if all free-flowing oil has been removed. These state and federal regulations reflect the judgment by the DNR and EPA that oil absorbent materials may be landfilled in an environmentally protective manner.

Assembly Bill 383 seeks to codify the state and federal regulations for safely disposing of oil absorbent materials in a licensed landfill, including the requirement that all free-flowing oil must be removed prior to disposal. The bill removes the costly, Wisconsin-only landfill ban, and replaces it with federal regulations that are known to be protective of the environment.

Passage of Assembly Bill 383 presents an opportunity to streamline and simplify regulations, and thereby reduce costs to employers, without sacrificing environmental protection. We thank Rep. Steineke for his leadership in introducing this bill, and hope that you will support its passage.



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Telephone (608) 280-7303

To: Members, Assembly Committee on Natural Resources
From: Rebecca Larson, Manager, Government Relations, Xcel Energy
Date: January 3, 2012
Re: Support for Assembly Bill 383, relating to the disposal of oil absorbent materials.

Background

Last session the Wisconsin Legislature passed into law 2009 Wisconsin Act 86, which prohibits disposal of used oil filters and oil absorbent materials in a solid waste disposal facility. Xcel Energy took no position regarding Act 86's ban on used oil filters. However, Xcel Energy did have concerns with the second provision of Act 86 (Wis. Stat. § 287.07(4m)(b)2.) pertaining to oil absorbent materials. Those concerns were, and continue to be, with the new law's failure to provide a narrow exception allowing for the disposal of certain non-hazardous oil absorbent materials that are either too expensive to recycle, or, in some instances, precluded from being recycled at all.

Unlike used oil filters – where adequate services exist for recycling – it is much more difficult and expensive to recycle oil absorbent materials. In fact, in some instances recycling of oil absorbent materials is simply not an option under the new law.

Wisconsin has just a few known facilities that will recycle these materials. Therefore, most of the oil absorbent materials must be shipped out of the state, which adds more costs.

As a result of Act 86, Xcel Energy, similar to other utilities and businesses, are now faced with higher costs associated with recycling these materials that in the past were safely disposed of in solid waste facilities. Xcel Energy supports AB 383's narrow exception to the current ban on the disposal of oil absorbent materials.

AB 383 Strikes the Right Balance

Prior to enactment of Act 86, Wisconsin utilities were allowed to dispose certain non-hazardous oil absorbent materials in properly engineered landfills. Assembly Bill 383 reinstates this narrow exception by mirroring existing federal Environmental Protection Agency regulations pertaining to the disposal of non-hazardous oil absorbent materials and such materials that have been drained of free-flowing oil.

Conclusion

Assembly Bill 383 protects the environment, and at the same time protects Wisconsin utilities from unnecessary costs associated with the disposal of certain oil absorbent materials that are simply too expensive to be recycled, or in some instances, unable to be recycled at all.

Xcel Energy therefore fully supports AB 383.



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To: Assembly Natural Resources Committee

**From: Bill Skewes, Executive Director
Wisconsin Utilities Association**

A handwritten signature in black ink, appearing to be 'BS', is written over the 'From' field.

Re: Support for AB 383

Date: January 4, 2012

On behalf of Wisconsin's investor-owned energy providers, the Wisconsin Utilities Association (WUA) supports AB 383, relating to disposal of oil-absorbent materials.

As you may know, the bill aligns Wisconsin law with federal EPA policy by allowing oil-absorbent materials to be disposed in solid-waste disposal facilities, such as licensed landfills, provided that any free-flowing oil has been removed and the materials are not hazardous waste.

This proposal will benefit customers because it would no longer require transport and disposal of used oil-absorbent materials to the limited number of certain facilities, mandated by default under 2009 WI Act 86. Transporting and disposal in these facilities is unnecessary, is not economical and is not readily available across the state.

By contrast, all licensed landfills in Wisconsin are already designed to accept oil-absorbent materials, so the current law barring them from these sites is unnecessarily burdensome and expensive.

For example, an informal study by one WUA member showed that the cost of disposal for their used oil-absorbent materials, as a result of 2009 Act 86, more than doubled. Obviously, increasing costs for customers is detrimental, especially in a struggling economy. AB 383 presents an opportunity to reduce oil-absorbent material disposal expenses.

For these reasons, WUA respectfully requests your support of AB 383.